

COUNTY COUNCIL
OF
HARFORD COUNTY, MARYLAND
(AS AMENDED)

BILL NO. 03-61

Introduced by Council President Wagner at the request of the County Executive

Legislative Session Day No. 03-28

Date: November 4, 2003

A BILL approving and providing for a ~~multi-year Installment Purchase Agreement~~ the cash purchase pursuant to an Agreement of Sale by Harford County, Maryland to acquire development rights (excluding one development right to be used solely for the construction of one residence) in up to 50 acres of agricultural land located at the North Side of Hess Road, near the East Side of Jarrettsville Pike, Monkton, Maryland from Constant Overlook, LLC, or any other owner thereof for a maximum purchase price of \$3,500.00 per acre or portion thereof (excluding one acre for any existing residential dwelling); providing that the County's obligation to pay such purchase price and interest thereon shall be a full faith and credit general obligation of the County; providing for the levying of taxes for such payments; authorizing the County Executive to make modifications in such Agreement under certain circumstances; providing for and determining various matters in connection therewith.

By the Council,

Introduced, read first time, ordered posted and public hearing scheduled

on: December 2, 2003

at: 7:45 p.m.

By Order: Barbara J. Ruth, Council Administrator

PUBLIC HEARING

Having been posted and notice of time and place of hearing and title of Bill having been published according to the Charter, a public hearing was held on December 2, 2003, and concluded on December 2, 2003.

Barbara J. Ruth Council Administrator

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW. [BRACKETS] indicate matter deleted from existing law. Underlining indicates language added to Bill by amendment. Language lined through indicates matter stricken out of Bill by amendment.

RECITALS

~~In accordance with the provisions of Section 524 of the Charter of Harford County (the "Charter"), the Annual Budget and Appropriation Ordinance of Harford County, Maryland (the "County") the Budget for fiscal year 2004, Bill No. 03-16 (the "Budget Ordinance") includes a project permitting the County to enter into installment purchase agreements to acquire development rights in agricultural lands located within the County, which Budget Ordinance was adopted by the County Council of Harford County, Maryland (the "County Council"), in accordance with the Charter.~~

~~Section 520 of the Charter provides that "any contract, lease or other obligation in excess of three thousand dollars (\$3,000) requiring the payment of funds from the appropriations of a later fiscal year shall be authorized by legislative act, and Section 524 of the Charter provides that the County may incur debt and pursuant to Bill No. 93-2 passed by the County Council on April 6, 1993, approved by the County Executive of the County on April 20, 1993, and effective on June 21, 1993, and Bill No. 01-17, passed by the County Council on August 7, 2001, approved by the County Executive on August 9, 2001, and effective on October 9, 2001 (the "Authorizing Act"), the County has been authorized and empowered to enter into installment purchase agreements to purchase easements for agricultural land preservation purposes.~~

Pursuant to the provisions of Bill No. 93-2, passed by the County Council of Harford County, Maryland ("County Council") on April 6, 1993, approved by the County Executive of Harford County, Maryland ("County") on April 20, 1993 and effective on June 21, 1993, and Bill No. 01-17, passed by the County Council on August 7, 2001, approved by the County Executive of the County on August 9, 2001 and effective on October 9, 2001 (the "Agricultural Land

1 Preservation Act”), the County is authorized to acquire development rights in agricultural land
2 located within the County.

3 The Authorizing Act provides that after review by the Harford County Agricultural
4 Advisory Board in accordance with the County's Easement Priority Ranking System and approval
5 by the Harford County Board of Estimates, the County Council, may approve and provide for the
6 acquisition of the development rights in each particular parcel of agricultural land, as defined in
7 the Authorizing Act.

8 Attached to this Bill as Exhibit A is an application to sell a development rights easement
9 signed by the landowner where agricultural land is the subject of this Bill.

10 Attached to this Bill as Exhibit B are records of The Harford County Agricultural
11 Advisory Board evaluating all applications to offer development right easements to the County,
12 with each application ranked pursuant to the County's easement priority ranking system.

13 The County has now determined to enter into an ~~Installment Purchase Agreement~~
14 Agreement of Sale with Constant Overlook, LLC, or any other person who is or becomes the
15 owner of all or any portion of the Land (hereinafter defined) prior to execution and delivery of
16 such Agreement, in order to acquire the development rights (excluding one development right to
17 be used solely for the construction of one residence) in approximately 50 acres, more or less, of
18 agricultural land located at the North Side of Hess Road, near the East Side of Jarrettsville Pike,
19 Monkton, Maryland within the County for an aggregate purchase price not in excess of \$175,000,
20 ~~plus interest thereon~~, the actual amount of the purchase price to be equal to the lesser of such
21 maximum amount or \$3,500.00 times the number of acres in such land (minus one acre for any
22 existing residential dwelling located thereon), upon the terms and conditions hereinafter set forth;
23 provided further that the ~~Installment Purchase Agreement~~ Agreement of Sale shall provide that

except for the one development right retained by the owner of the Land to construct one residence, the owner of the Land shall expressly waive rights pursuant to the Authorizing Act to construct any other residence on the Land as a residence of the grantor, a tenant home or as a residence of a child of the grantor.

NOW, THEREFORE:

SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF HARFORD COUNTY, MARYLAND, That

(a) Harford County, Maryland (the "County") shall enter into an ~~Installment Purchase Agreement~~ (the "~~Installment Purchase Agreement~~") Agreement of Sale with Constant Overlook, LLC, or any person who is or becomes the owner of all or any portion of the Land (hereinafter defined) prior to the execution and delivery of the ~~Installment Purchase Agreement~~ Agreement of Sale (the "Seller") in order to acquire the development rights (excluding one development right to be used solely for the construction of one residence) in approximately 50 acres of land, more or less, located at the North Side of Hess Road, near the East Side of Jarrettsville Pike, Monkton, Maryland within the County (the "Land"), for an aggregate purchase price not in excess of \$175,000.00 (the "Purchase Price"), ~~plus interest thereon as hereinafter provided~~; provided that the actual amount of the Purchase Price shall be equal to the lesser of such maximum amount or \$3,500.00 multiplied by the number of acres in the Land (minus one acre for any existing residential dwelling located thereon);

(b) The ~~Installment Purchase Agreement~~ Agreement of Sale shall be in substantially the form attached hereto as Exhibit C and made a part hereof, and in such form the ~~Installment Purchase Agreement~~ Agreement of Sale is hereby approved as to form and content, including, but not limited to (1) restricting use of the development right retained by the owner of

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the Land to construction of one residence, and (ii) waiving any right pursuant to the Authorizing Act to construct a residence as a grantor lot, tenant home or residence of a child of the owner of the Land. The ~~Installment Purchase Agreement~~ Agreement of Sale shall be dated as of the date of its execution and delivery by the County and the Seller (the "Closing Date");

(c) ~~A portion of the Purchase Price, in the amount determined as hereinafter provided, shall be paid in cash on the Closing Date. The balance of the Purchase Price shall be paid to the Seller in each year thereafter to and including a date not more than twenty (20) years after the Closing Date. The dates on which each such installment is payable shall be determined by the County Executive and the Treasurer and shall be inserted in the form of the Installment Purchase Agreement attached hereto as Exhibit C;~~

(d) ~~Interest on the unpaid balance of the Purchase Price shall accrue from the Closing Date and shall be payable at least annually in each year, commencing on the first of such dates to follow the Closing Date and continuing to and including a date not more than 20 years after the Closing Date at an interest rate equal to the yield on U.S. Treasury STRIPS maturing on the date next preceding the final maturity date in the Installment Purchase Agreement determined as of the business day preceding the Closing Date and rounded to the next highest 0.05% per annum. Interest shall be calculated on the basis of a 360 day year of twelve 30 day months;~~

(e) ~~The County's obligation to make payments of the Purchase Price under the Installment Purchase Agreement and to pay interest thereon is and shall be a general obligation of the County and is and shall be made upon its full faith and credit.~~

(c) The Purchase Price Shall be paid in cash on the closing date.

SECTION 2. BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF
HARFORD COUNTY, MARYLAND,

That it is hereby found and determined that:

(a) The acquisition of the development rights in the Land as set forth in Section 1 of this Bill and in the form of the ~~Installment Purchase Agreement~~ Agreement of Sale attached hereto as Exhibit C is in the best interests of the County;

~~(b) The Installment Purchase Agreement is a contract providing for the payment of funds at a time beyond the fiscal year in which it is made and requires the payment of funds from appropriations of later fiscal years;~~

~~(c) Funds for the payment of the Purchase Price under the Installment Purchase Agreement are included in the Budget Ordinance, As Amended;~~

~~(db)~~ The County shall acquire the development rights in the Land in perpetuity;

~~(e) The Purchase Price is within the legal limitation on the indebtedness of the County as set forth in Article 25A, § 5(P) of the Annotated Code of Maryland;~~

~~(fc)~~ The cost of acquiring the development rights in the Land is equal to the Purchase Price;

~~(gd)~~ The only practical way to acquire the development rights in the Land is by private negotiated agreement between the County and the Seller.

SECTION 3. BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF HARFORD COUNTY, MARYLAND, That the ~~Installment Purchase Agreement~~ Agreement of Sale shall be signed by the County Executive of the County (the "County Executive") by his manual signature, and the ~~Installment Purchase Agreement~~ Agreement of Sale shall bear the corporate seal of the County, attested by the manual signature of the Director of Administration of the County (the "Director of Administration"). In the event that any officer whose signature shall appear on the ~~Installment Purchase Agreement~~ Agreement of Sale shall cease to be such

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1 officer before the delivery of the ~~Installment Purchase Agreement~~Agreement of Sale, such
2 signature shall nevertheless be valid and sufficient for all purposes, the same as if such officer
3 had remained in office until delivery.

4 ~~SECTION 4. AND BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF~~
5 ~~HARFORD COUNTY, MARYLAND, That the County Executive and the Treasurer are hereby~~
6 ~~authorized, prior to execution and delivery of the Installment Purchase Agreement, to make such~~
7 ~~changes or modifications in the form of the Installment Purchase Agreement attached hereto as~~
8 ~~Exhibit C as may be required or deemed appropriate by them in order to accomplish the purpose~~
9 ~~of the transactions (including, but not limited to, determining the portion of the Purchase Price to~~
10 ~~be paid in cash on the Closing Date and establishment of interest and principal payment dates in~~
11 ~~each year that the Installment Purchase Agreement is outstanding) authorized by this Bill;~~
12 ~~provided that such changes shall be within the scope of the transactions authorized by this Bill~~
13 ~~and the execution of the Installment Purchase Agreement by the County Executive shall be~~
14 ~~conclusive evidence of the approval by the County Executive of all changes or modifications in~~
15 ~~the form of the Installment Purchase Agreement and shall thereupon become binding upon the~~
16 ~~County in accordance with its terms, as authorized by Section 524 of the Charter and the~~
17 ~~Authorizing Act (collectively, the "Enabling Legislation"), and as provided for in this Bill.~~

18 ~~SECTION 5~~SECTION 4. BE IT FURTHER ENACTED BY THE COUNTY COUNCIL
19 OF HARFORD COUNTY, MARYLAND, That the County Executive, the Director of
20 Administration, the Treasurer of the County and other officials of the County are hereby
21 authorized and empowered to do all such acts and things and to execute, acknowledge, seal and
22 deliver such documents (including a Tax Certificate and Compliance Agreement) and certificates
23 as the County Executive may determine to be necessary to carry out and comply with the

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provisions of this Bill subject to the limitations set forth in the Enabling Legislation and any limitations set forth in this Bill.

~~SECTION 6. BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF HARFORD COUNTY, MARYLAND, That the Treasurer of the County is hereby designated and appointed as registrar and paying agent for the Installment Purchase Agreement (the "Registrar"). The Registrar shall maintain, or cause to be maintained, books of the County for the registration and transfer of ownership of the Installment Purchase Agreement. In addition, the County may, from time to time, designate and appoint the Department of the Treasury of the County, any officer or employee of the County or one or more banks, trust companies, corporations or other financial institutions to act as a substitute or alternate registrar or paying agent for the Installment Purchase Agreement, and any such substitute or alternate shall be deemed to be the Registrar or an alternate Registrar for all purposes specified in the resolution appointing such substitute or alternate. Any such appointment shall be made by the County Council by resolution and the exercise of such power of appointment, no matter how often, shall not be an exhaustion thereof.~~

~~SECTION 7. BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF HARFORD COUNTY, MARYLAND, That for the purpose of paying the installments of the Purchase Price when due and payable and the interest on the unpaid portion of the Purchase Price when due and payable, there is hereby levied, and there shall hereafter be levied in each fiscal year that any portion of the Purchase Price payable under the Installment Purchase Agreement remains outstanding, *ad valorem* taxes on real and tangible personal property and intangible property subject to taxation by the County, without limitation of rate or amount, and, in addition, upon such other intangible property as may be subject to taxation by the County within~~

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~~limitations prescribed by law, in an amount sufficient, together with the portion of the transfer tax imposed on transfers of real property in Harford County which is dedicated to agricultural land preservation and other available funds, to pay any installment of the Purchase Price under the Installment Purchase Agreement maturing during the succeeding year and to pay the annual interest on the outstanding balance of the Purchase Price until all of the Purchase Price under the Installment Purchase Agreement and such interest have been paid in full; and the full faith and credit and the unlimited taxing power of the County are hereby irrevocably pledged to the punctual payment of the Purchase Price under the Installment Purchase Agreement and the interest on the unpaid balance of the Purchase Price as and when the same respectively become due and payable.~~

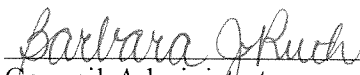
SECTION 5. BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF HARFORD COUNTY, MARYLAND, That the County Executive is authorized to execute the Agreement of Sale substantially in the form attached hereto as Exhibit C and upon satisfaction of all requirements of the Agreement of Sale, and pursuant to the Agricultural Land Preservation Act, the County Executive is authorized to execute all documents necessary or appropriate to purchase the development rights (excluding one development right to be used solely for the construction of one residence) in the agricultural land hereinabove described, pursuant to a Deed of Easement from the land owner to the County, with such changes as may be recommended by the County Attorney and approved by the County Executive, and the County Executive is authorized to execute and deliver such other and further documents as may be necessary or appropriate to complete the purchase of the development rights easement.

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~~SECTION 8~~SECTION 6. BE IT FURTHER ENACTED BY THE COUNTY COUNCIL
OF HARFORD COUNTY, MARYLAND, That this Bill shall take effect sixty (60) calendar
days after it becomes law.

EFFECTIVE: February 2, 2004

The Council Administrator of the Council does
hereby certify that fifteen (15) copies of this Bill are
immediately available for distribution to the public
and the press.



Council Administrator

HARFORD COUNTY BILL NO. 03-61 As Amended

Brief Title Agricultural Preservation – Constant Overlook, LLC

is herewith submitted to the County Council of Harford County for enrollment as being the text as finally passed.

CERTIFIED TRUE AND CORRECT

Barbara J. Ruth
Council Administrator

Date December 2, 2003

ENROLLED

Robert S. Hagan
Council President

Date December 2, 2003

BY THE COUNCIL

Read the third time.

Passed: LSD 03-30

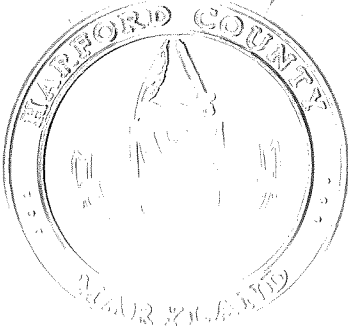
Failed of Passage: _____

By Order

Barbara J. Ruth
Council Administrator

Sealed with the County Seal and presented to the County Executive for approval this 4th day of December, 2003 at 3:00 p.m.

Barbara J. Ruth
Council Administrator



BY THE EXECUTIVE

James H. Hahn
COUNTY EXECUTIVE

APPROVED: Date 12-4-03

BY THE COUNCIL

This Bill No. 03-61 As Amended, having been approved by the Executive and returned to the Council, becomes law on December 4, 2003.

EFFECTIVE DATE: February 2, 2004

Barbara J. Ruth
Barbara J. Ruth, Council Administrator